



DIVISION OF PLANNING FREDERICK COUNTY, MARYLAND

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To: Board of County Commissioners

FROM: Eric Soter, Director, Division of Planning

DATE: February 18, 2010

RE: Euclidean Institutional/Euclidean Open Space Recreation *Draft*
Text Amendment – Related to Countywide Comprehensive Plan
Issues

ISSUE

During the Countywide Comprehensive Plan update process, Staff identified several issues in regards to the existing zoning ordinance text, and the application of the Euclidean Institutional (Ie) and Euclidean Open Space Recreation (OSRe) zoning districts. These issues include providing conformity to 'Private School in Conjunction with a Place of Worship', 'Zoo', and 'Caretaker Residence' land uses, adding cross references, providing design requirements (such as height and setback standards), and providing further clarification regarding subdivision and processing within these districts.

BACKGROUND

The Ie and OSRe zoning districts were created with adoption of ZT-09-03 (A/RC Use and Definitions Text Amendment) in an effort to provide conforming status to several land uses previously permitted within the Agricultural and/or Resource Conservation zoning districts. In addition to purpose statements for the Ie and OSRe zoning districts within the zoning ordinance, companion language was also adopted within Section 1-19-8.480 to provide for the processing and review of potential expansion of these existing land uses. Although the zoning districts were created with the adoption of the text amendment in June of 2009, application of the zoning districts to specific properties will occur as part of the Countywide Comprehensive Plan update process. During the Comprehensive Plan discussions and worksessions it became clear that specific updates to the existing adopted Ie and OSRe zoning ordinance text were necessary to: provide for 'Private School in Conjunction with a Place of Worship', 'Zoo', and 'Caretaker Residence' as permitted land uses, to add cross references between related sections of the zoning ordinance, provide design requirements (such as height and setback standards), and provide further clarification regarding subdivision and processing within these districts.

The Board of County Commissioners held a worksession on February 2, 2010 to review and provide direction on the draft text amendment. The direction given at the worksession has been incorporated into the proposed text.

The initial draft of the Ie/OSRe text amendment, discussed at the February 2nd worksession, included text to provide design requirements including minimum lot area, lot area per unit, lot width, height, and front, side, and rear yard setbacks. These design requirements were proposed to provide guidance for the future expansion of permitted uses within the Ie and OSRe zoning districts through the site plan review process. Although minimum design requirements are needed to facilitate the review of future expansion, the inclusion of minimum lot area requirements may also provide for future subdivision potential. After consideration of the draft text, the BOCC directed Staff to include maximum height and minimum setback requirements and to create a set of options for further consideration regarding potential subdivision within these zoning districts.

As part of the text amendment discussion the BOCC also noted that the draft text should provide a set of standards that apply uniformly within the districts, that a minimum lot size of 5 acres may be too small based on the permitted uses, and subdivision options to be drafted should not permit an increase in subdivision potential beyond what would have been permitted within the previous zoning districts (A and RC).

In determining the appropriate standards, Staff reviewed the properties reflecting the Ie and OSRe zoning districts as proposed within the BOCC draft Comprehensive Plan. All of the 33 properties currently reflect Agricultural zoning. A few of the properties also include another type of zoning which is reflective of a site specific situation such as floodplain or an access through another zoning district. However the 33 properties currently reflect a majority of Agricultural zoning, even where another zoning district may be present. For this reason, the recommendations regarding height, setbacks, and subdivision are similar to the regulations within the Agricultural zoning district.

Staff has prepared three options for BOCC consideration. Within all three options, sections 1-19-5.260, 1-19-5.270, and 1-19-5.310 remain the same. Therefore only section 1-19-8.480 has been included in Options 2 and 3 for comparison purposes.

TEXT AMENDMENT OVERVIEW

The text amendment overview section below provides a summary of the proposed changes. The summary includes the zoning ordinance section and heading followed by a description for each proposed change.

Within the attached Exhibit 1 - Ie and OSRe Zoning Districts *Draft* Text Amendment proposed new text is **BOLD CAPS**, and text for removal is shown in ~~STRIKETHROUGH~~.

ARTICLE V: ZONING MAP AND DISTRICTS

DIVISION 2. ZONING DISTRICTS

§ 1-19-5.260. EUCLIDEAN INSTITUTIONAL ZONING DISTRICT (Ie).

As reflected in Option 1, this existing section of the zoning ordinance has been updated to provide conforming status to 'Private school in conjunction with a place of worship' land uses, to remove duplication in the original text, and to add a cross reference to section 1-19-8.480.

During the County Comprehensive Plan update process Staff was made aware through public comment that two properties with proposed Euclidean Institutional zoning include both a private school and a place of worship. In addition to other permitted uses, the existing purpose statement for the Euclidean Institutional zoning district provides only for private school. Text has been added to permit 'Private school in conjunction with a place of worship' in addition to the existing text providing for 'Private school'. The addition of this text will provide conforming status for these properties.

§1-19-5.270 EUCLIDEAN OPEN SPACE RECREATION ZONING DISTRICT (OSRe).

As reflected in Option 1, this existing section of the zoning ordinance has been updated to provide conforming status to the 'Zoo ' land use, and to add a cross reference to section 1-19-8.480.

The existing Catoctin Wildlife Preserve and Zoo located in the Thurmont Region currently reflects the Highway Service zoning district. During the County Comprehensive Plan update process the Highway Service zoning district has been removed across the County and in most cases has been replaced by the General Commercial zoning district. However, due to various concerns regarding the location of the existing zoo outside of a community growth area, served by well and septic, and the increased land use intensity available in the General Commercial zoning district applying the Euclidean Open Space Recreation zoning district would be the preferred option.

For these reasons 'Zoo' has been added to this section as a permitted land use within the OSRe zoning district. The addition of this text will provide conforming status for the zoo facility without the application of the General Commercial zoning district at this location.

DIVISION 3. USE TABLE

§ 1-19-5.310. USE TABLE.

As reflected in Option 1, this existing section of the zoning ordinance has been updated to correspond to the changes proposed in section 1-19-5.260 and 1-19-5.270 discussed above. In addition, 'Caretaker residence in conjunction with a permitted use' has been added as a permitted accessory use to provide conformity for existing caretaker residences (Catoctin Wildlife Preserve and Zoo), and those that may be requested in the future.

§ 1-19-8.480. USES PERMITTED IN THE EUCLIDEAN INSTITUTIONAL (Ie) OR EUCLIDEAN OPEN SPACE RECREATION (OSRe) ZONING DISTRICTS.

This existing section of the zoning ordinance was created to provide for the possibility of future expansion of those uses permitted within the Ie and OSRe zoning districts. General edits to this section have been made to correspond to those changes as previously discussed above, to provide for design requirements within the Ie and OSRe zoning districts, and to provide clarification regarding permitted uses and site plan review processing.

In addition, three options have been provided for consideration of text which would:

- Option 1 – Include only setback and height requirements without subdivision
- Option 2 – Include setback and height requirements, and subdivision similar to that permitted within the Agricultural zoning district
- Option 3 – Include the same requirements as Option 2, with an increased minimum lot size

Option 1

This option provides setback and height requirements without providing for future subdivision.

Section 1-19-8.480 includes edits to the introductory paragraph based on proposed changes to subsection (A) through (D) as noted below.

Subsection (A) contains proposed maximum height and minimum front, side, and rear yard setback standards. The proposed standards are based upon similar requirements for natural resource uses within the Agricultural zoning district as contained in section 1-19-6.100 of the zoning ordinance.

Subsection (B) provides clarification that there is no minimum lot size or lot width within the zoning districts, however, no future subdivision will be permitted. The proposed text would provide conformity for existing properties regardless of lot size or lot width but prohibit future subdivision.

Subsection (C) includes reorganization and consolidation of existing text, and the addition of 'Zoo' as previously discussed. Clarification has also been provided with the addition of a cross reference to the site plan review sections within the zoning ordinance.

Existing subsection (B), including the reference to the expansion as a permitted natural resource use, has been deleted as discussed by the BOCC during the February 2nd worksession.

'Private School in Conjunction with a Place of Worship' has been added to subsection (D).

Option 2

Within this option, sections 1-19-5.260, 1-19-5.270, and 1-19-5.310 remain the same as proposed in Option 1.

Within section 1-19-8.480 Subsection (A), Option 2 provides the same height and setback standards as proposed in Option 1, which are based upon similar requirements for natural resource uses within the Agricultural zoning district as contained in section 1-19-6.100 of the zoning ordinance.

Subsection (B) provides for subdivision within the 1e and OSRe zoning districts based on current non-residential subdivision requirements within the Agricultural zoning district which are contained in section 1-19-7.300 (B) of the zoning ordinance. The proposed text would permit subdivision of 3 lots and a remainder off an original tract of land as of August 18, 1976.

The proposed minimum lot area and lot width is based upon the same requirements for natural resource uses within the Agricultural zoning district as provided in section 1-19-6.100 of the zoning ordinance. Although it was discussed that a minimum lot size of 5 acres may be too small for the permitted uses within the Ie and OSRe zoning districts, current regulations within the Agricultural zoning district provide a minimum lot size of 40,000 square feet for Institutional, Governmental, and public utility uses, and a 5 acre minimum lot size for Open space uses and Commercial Amusements.

As previously noted, the regulations within the Agricultural zoning district are reflective of current requirements for those properties proposed to receive Ie and OSRe zoning.

Subsections (C) and (D) provide for 'Zoo' and 'Private School in conjunction with a Place of Worship' as previously discussed.

Option 3

Within this option, sections 1-19-5.260, 1-19-5.270, and 1-19-5.310 remain the same as proposed in Option 1.

Within section 1-19-8.480 subsection (A) contains the same height and setback standards as proposed in Option 1, which are based upon similar requirements for natural resource uses within the Agricultural zoning district as contained in section 1-19-6.100 of the zoning ordinance.

Option 3 differs from Option 2 in subsection (B)(2) where the minimum lot size has been increased from 5 acres to 10 acres, based on discussion at the worksession that a 5 acre minimum is too small for permitted uses within the Ie and OSRe zoning districts.

Subsections (C), and (D) reflect text as proposed in Option 2.

STAFF RECOMMENDATION

Staff requests direction regarding the Ie and OSRe Zoning Districts *Draft* Text Amendment and the three Options provided for BOCC consideration.

EXHIBITS

Exhibit 1 – Ie and OSRe Zoning Districts Draft Text Amendment
Option 1, Option 2, Option 3